

**RULES
OF
THE ALCOHOL BEVERAGE COMMISSION**

**CHAPTER 0100-1
RULES FOR THE SALE OF LIQUOR BY THE DRINK**

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0100-1-.01 ADVERTISING.

- (1) Billboards and Outside Signs.
 - (a) Alcoholic Beverages may be advertised on signs and billboards city in those counties which have legalized the sale of such beverages under the provisions of section 57-3-106, Tennessee Code Annotated.
 - (b) No sign which bears a trade mark, trade slogan, trade slogan or other distinctive designation associated with a particular brand shall also bear the name, or advertise the establishment, or refer to the services of any licensee.
- (2) Reserved.
- (3) Advertising Outside the Licensed Premises Relating to the Availability of Alcoholic Beverages
 - (a) Advertising on Radio or Television Stations Prohibited. - The availability of alcoholic beverages may not be advertised on radio or television stations in Tennessee except under the following circumstances:
 1. Television advertising of liquor-by-the-drink licensees may show normal scenes of activity within the restaurant portion of any such licensee. Consumption of alcoholic beverage may not be shown nor may alcoholic beverages be the central focus of any such advertising. Any scene which is inconsistent with the inconspicuous presence of alcoholic beverages as a normal accompaniment to restaurant food service is specifically prohibited. Audio portions of television broadcasts shall contain no reference to alcoholic beverages.
 2. Audio portions of television broadcasts and radio broadcasts shall contain no reference to the availability of alcoholic beverages. However, use of the word "beverages" in broadcast advertising which principally relates to food service is not considered to violate this section. Use of the following in broadcast audio advertising is specifically declared to be in violation of this rule: drinks, happy hour, attitude adjustment hour, cocktails, highballs, or any other language generally understood to refer to alcoholic beverages or a period in which their prices for alcoholic beverages are reduced.
 - (b) Brand and Establishment Advertisement Prohibited. - No advertisement relating to the availability of any alcoholic beverages in any licensed premises shall carry any advertising associated with a particular brand of alcoholic beverages.

(Rule 0100-1-.01, continued)

Authority: T.C.A. §§57-1209, 57-4-201 and 57-818 to implement §57-111 and Chapter 211, Public Acts of 1967. **Administrative History:** Original rule certified June 7, 1974. Amendment filed July 21, 1981; effective October 29, 1981. Amendment filed December 1, 1982, effective January 3, 1983. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed July 8, 1983; effective October 14, 1983.

0100-1-.02 SOLICITATION OF BUSINESS, AND SERVICES RESTRICTED

- (1) Manufacturer and Importer Limited to Wholesale Solicitation.
 - (a) No manufacturer, importer or representative thereof shall solicit orders in any manner beverages from anyone in this state except from those holding wholesale liquor licenses.
 - (b) No manufacturer, importer, or representative thereof shall perform or provide any service whatsoever for a licensee hereunder, or his employee in this state, whether on or away from the licensed premises. No manufacturer, importer, or representative thereof shall enter the premises of any licensee hereunder, except as a bona fide customer.
 - (c) No manufacturer, importer or representative thereof shall give anything of value whatsoever, including but not limited to alcoholic beverages and money, to any Tennessee retail licensee or his employee whether on or away from the retail premises. Furthermore, no manufacturer, importer or representative thereof may take into any licensed premises hereunder any alcoholic beverages in any quantity.
 - (d) Notwithstanding the prohibitions contained herein all conduct or services permitted by 0100-6 of these regulations is permitted.

Authority: T.C.A. §§57-818, 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 9, 1983; effective October 11, 1983.

0100-1-.03 CONDUCT OF BUSINESS.

- (1)
 - (a) Business Management Restricted - Every licensed business shall be managed by the holder of the license, if an individual, or by a partner or corporation officer or by a manager designated to the Commission in the event that the business is operated by a partnership or corporation (or by a manager in any case who has been designated to the Commission). The Alcoholic Beverage Commission is to be notified in writing, by certified mail, of any change in manage at least seven (7) days prior to the actual change, except in case of emergency.
 - (b) Further, each on-premise manager, assistant manager, and/or any individual working in such capacity and having duties which directly or indirectly impacts on the selling and dispensing of alcoholic beverages, must complete and submit to the Tennessee Alcoholic Beverage Commission a questionnaire prior to assuming their managerial duties.
- (2) Consumption on Licensed Premises - No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3 a.m. and 8 a.m. on Monday through Saturday or between the hours of 3 a.m. and 10 a.m. on Sunday.
- (3) Reserved.
- (4) Free Access to Licensed Premises Without Warrant. - Immediate access, without a warrant, to all parts of a licensed premise shall at all time be accorded agents of the Tennessee Alcoholic Beverage Commission.

(Rule 0100-1-.03, continued)

- (5) Refusal of Cooperation - Any licensee, his agent, or employee who refuses to open or disclose his records to, or furnish information to, an Agent of the Tennessee Alcoholic Beverage Commission upon any matter relating to or arising out of the conduct of the licensed premises shall subject the license to revocation or suspension.
- (6) Licensees Not to Combine - No combination of licensees shall be permitted to purchase merchandise in the name of licensee and subsequently distribute merchandise which they have purchased in combination with each other to any one of the combination, and no licensee shall be permitted to transfer goods from one to another. If any member of the combination is apprehended violating this regulation, every member shall likewise be guilty of a violation, and it shall also be a violation for the wholesale distributor to furnish merchandise to any combination of licensee dealers.
- (7) Licensee Responsible For Law and Order On Licensed Premises. - Each licensee shall maintain his establishment in a decent, orderly and respectable manner in full compliance with all laws of Tennessee and ordinances and laws of the municipality and/or county where licensed premises are located.
- (8) Sanitary and Fire Standards. - All licensed premises shall be kept and clean and in proper sanitary condition, and in full compliance with the provisions and regulations of all duly authorized health authorities whether State, County or City.
- (9) On-Premise Sale By Bottle Restricted - On-premise licensees shall not sell or give away distilled spirits by the bottle or package, open or unopened. Licensees shall have the right to sell wines, champagnes or malt beverages by the bottle or container for consumption on the premises only, and said bottle or container must be opened prior to its being served to the consumer, except as provided in Liquor By The Drink Rule 0100-1-.03(3).
- (10) On-Premise Employees' Activities Restricted. - An on-premise licensee shall not permit any employee to dance with customers or sit with customers on the licensed premises nor shall any customer be permitted to purchase food or drink for any such employee on the licensed premises. The presence of activity of so-called "b" girls is specifically prohibited.
- (11) Restriction As To Age Of Dispensing Employees. - No person under the age of 18 years shall be permitted to dispense, serve, or sell alcoholic or malt beverages in any establishment licensed under the provisions of Chapter 211, Public Acts of 1967.
- (12) Dual Interests Prohibited.
 - (a) No licensee hereunder and no person owning an interest financial or otherwise in a partnership or corporation holding the license hereunder, shall have any interest in any business licensed under the provisions of T.C.A. §§57-3-202, 57-3-203, or 57-3-204.
 - (b) No person having any interest financial or otherwise in any business licensed under the provisions of T.C.A. §§57-3-202, 57-3-203, or 57-3-204, shall have any interest in any business licensed hereunder.
- (13) Restrictions on License After Revocation.
 - (a) No license will be issued to the spouse, child or children, son-in-law or daughter-in-law, employee or other person having any interest in the business of a license whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked.
 - (b) The commission may refuse to re-issue a license to the same person, firm or corporation whose license has been revoked for one (1) year from the date of said revocation.

(Rule 0100-1-.03, continued)

- (14) Licensee Must Surrender License If Business Discontinued - Whenever any licensee discontinues business for any reason, he shall immediately notify the Commission in writing and surrender his license.
- (15) Prohibited Practices. - No licensee or employee or agent of a licensee shall give away any sealed package, or any drink, of wine or alcoholic beverages. "Give," for the purpose of this paragraph, shall include:
 - (a) offering or delivering any free drink to any person or group of persons;
 - (b) offering or delivering unlimited drinks for a fixed price if the actual cost of all ingredients, including the alcohol and all applicable taxes, of the drinks actually served to a customer exceeds the fixed price charged; and
 - (c) awarding any wine or alcoholic beverages as a prize or free drink or encouraging or conducting any game or contest which involves drinking or uses wine or alcohol as a prize or free drink.
- (16) Happy Hour Restrictions - No licensee or employee or agent of a licensee shall engage in any of the following promotional practices during the period beginning with 10:00 p.m., prevailing time, until the time set by law for closing of such licensed establishments:
 - (a) serve two or more drinks or containers of alcoholic beverages to a consumer at one time.
 - (b) sell, offer to sell, or deliver to any person or group of persons any drinks that are priced less than the price regularly charged for that drink in that size during the same calendar week, except at private functions not open to the public; or
 - (c) increase the volume of alcohol contained in any such drink during any calendar week without increasing proportionately the price regularly charged for such drink.
- (17) Business Name Change - At least seven (7) calendar days prior to any change in its business name or "d/b/a" name, a licensee must submit the proposed change in writing to the Commission for approval. Upon approval, the Commission will amend the license to reflect the licensee's new business or "d/b/a" name.
- (18) Display of License. - Any person, partnership, corporation, or other legal entity holding an on-premise consumption liquor-by-the-drink license issued under Chapter 4 of title 57, shall prominently display and post, and keep displayed and posted, in the most conspicuous place in the licensed premises, the license so issued.

Authority: T.C.A. §§57-1-207, 57-3-104(c) and 57-4-201(a)(2). **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261 effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed July 8, 1983; effective October 11, 1983. Amendment filed November 14, 1983; effective February 13, 1984. Amendment filed January 14, 1986; effective February 13, 1986. Amendment filed June 12 1988; effective August 5, 1988. Amendment filed December 4, 1996; effective April 30, 1997. Amendment filed December 29, 2000; effective March 14, 2001.

0100-1-.04 REPEALED

Authority: T.C.A. §57-3-205, 57-1-201 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Repeal filed September 8, 1983; effective October 11, 1983.

0100-1-.05 APPLICATIONS BY PRIVATE CLUBS.

(Rule 0100-1-.04, continued)

- (1) **Public Notice.** - Pursuant to Public Chapter 895 of Tennessee Public Acts, each club applying for a license to sell alcoholic beverages for consumption on its premises shall place a notice in a newspaper of general circulation in the county or municipality to be served indicating the club's intention to apply for a license from the Alcoholic Beverage Commission. The notice shall contain the information prescribed in subsection (2) below and shall appear in at least three (3) consecutive issues preceding the date that the application is filed with the Commission. The application shall be accompanied by a copy of the published notice and the sworn statement of the applicant that the notice was published in accordance with this section.
- (2) **Format of Notice.** - Each private club applicant shall place the following notice in the newspaper as described above:

PRIVATE CLUB LIQUOR LICENSE NOTICE

(Name of Club)

Take notice that _____ intends

(Name of Club)

to seek a license from the Tennessee Alcoholic Beverage Commission, 226 Capitol Boulevard Building, Nashville, Tennessee 37243-0755, to sell alcoholic beverages to its members and guests for consumption on the club's premises at _____.

(Address of club's premises)

of _____ are:

(Name of Club)

(Name and address of officers)

The club currently has approximately _____ regular dues paying members.

(name and address of person in actual charge of sale of alcoholic beverages)
will be in actual charge of the sale of alcoholic beverages at the club's premises and has applied

to _____
(city or county)

for a certificate of good moral character.

- (3) **Size of Notice.** - The title of the notice shall be all capital letters and at least 10 point type size. The text of the notice shall be at least 8 point type size and the size of the entire notice shall not be less than two columns by two inches of newspaper space.
- (4) **Change of Manager.** - Whenever there is a change in person or persons who are in actual charge of the sale of alcoholic beverages by a private club licensee, licensee must submit to the Alcoholic Beverage Commission a certificate of good moral character for the new person or persons who will be in actual charge of the sale of alcoholic beverages within thirty (30) days of the change. Nothing in this rule should be

(Rule 0100-1-.04, continued)

interpreted to relieve a private club licensee from the obligation to inform the Commission of a change in management as set out in Rule 0100-1-.03(1).

(5) Application Process For New Private Club Licenses

(a) Applications, in duplicate, shall be submitted to the nearest office of the ABC. In addition, the following documents must be submitted in support of an application by a private club for a license sell alcoholic beverages for consumption on premises:

1. Application (in duplicate) (Form ABC-OPP)
2. Membership List (names, addresses, date and amount of dues paid)
3. Questionnaires - officers of club and managers in control of actual sale of alcoholic beverages.
4. List of club officers - (names, addresses, date assumed office)
5. Charter, constitution, and any amendments thereto, if club is incorporated
6. Lease, sublease, deed or other instrument indicating ownership and/or possession of physical premises.
7. Certificate of good moral character for person(s) in actual charge of sale of alcoholic beverages
8. Newspaper notice accompanied by sworn statement as required by subsections (2) through (3) above.
9. Menu
10. Department of Revenue Drink Price Schedule.
11. Employees work permit applications.
12. Answers to questions on ABC form - Questions For Private Club Applicants

(b) In addition, any of the following documents which exist must be submitted:

1. Bylaws
2. Minutes of membership or board meetings
3. Management contract
4. Loan or financing agreements
5. Past tax returns (2 years)
6. Resolutions re changes in name, purpose or location of club
7. Financial statements
8. Written approval of use and occupancy by appropriate local authorities, where applicable

(Rule 0100-1-.04, continued)

- (c) Applicants should submit any other documents which indicate the club's compliance with licensing requirements.

NOTE: Such documentation may include items such as announcements of past activities, newsletters sent to members, ledgers reflecting payment of dues in past years and disbursement of funds, IRS approval as a nonprofit organization, sworn statements regarding the club's history and activities, etc. The applicant for a license has the burden of proving that it meets the requirement of the law and is, therefore, eligible to hold a license to sell alcoholic beverages. The fact that the applicant submits all the documents listed above does not automatically entitle the applicant to a license. Further, the applicant may be required to submit additional information or documentation if questions arise.

- (d) A license for a private club to sell alcoholic beverages on its premises may only be granted by action of the Alcoholic Beverage Commission itself.

(6) License Renewal and Transfer of Location By Private Clubs

- (a) Renewal-Each license issued is valid for one year from the date of issuance and expires at midnight on the expiration date. Both the issuance date and the expiration date shall be clearly printed on the face of the license. Failure to timely and properly file the material required by this rule shall result in the expiration of the license.

1. On or before the expiration date of the license, the licensee shall submit an application for license renewal and the appropriate license fee to the nearest office of the Alcoholic Beverage Commission.
2. Applications for license renewal need not submit that material required by rule 0100-1-.05(5) of new applicants.
3. All financial records shall be maintained and available for inspection for a minimum of three (3) years.

- (b) Transfer of Location - Licenses issued to private clubs may be transferred from one location to another only upon the following conditions:

1. written request for approval of such a transfer with adequate explanation for the need of such a transfer.
2. submittal of a satisfactory lease or deed to the proposed new location.
3. written approval of the use and occupancy of the proposed new space by the appropriate local officials
4. inspection by the ABC.
5. submittal of a petition or resolution in favor of such a transfer which reflects that it was adopted by a quorum of the club's members at a membership meeting held pursuant to the club's charter and by-laws.
6. when the proposed transfer is into a new jurisdiction, the club shall publish a new notice in compliance with paragraphs (1) through (3) of this rule and supply copies of that notice along with required sworn statement to the ABC as well as a certificate of good moral character upon the person T.C.A. §57-4-201(c)(2).

(Rule 0100-1-.04, continued)

7. No such transfer shall be approved unless the Commission, in its sole discretion, determine that the licensee continues to meet the requirements of these rules and Chapter 4 of Title 57, T.C.A.

(7) Definitions - For the purpose of this chapter, the following definitions shall be used:

- (a) Non-profit association - a legal entity which is not-for-profit and has at least the following characteristics:
 1. Financial statements covering the immediately preceding years of the club's operations. Financial statements shall clearly indicate the amount and source of all club receipts and the amount and purpose of all club disbursements in specific categories consistent with standard accounting practices. In addition, the financial statements must show a balance sheet of the club's assets and liabilities at the end of the immediately preceding year. Copies of IRS Form W-2 for each employee shall be maintained and made available upon request.
 2. Bylaws or rules of the association which provide membership application procedures. Those bylaws or rules shall provide for (a) at least one week waiting period between application for membership and election to membership and (b) a committee composed of three or more members of the club vested with the authority by charter, bylaws or regulations, to approve, reject, or make recommendations on membership applications.
 3. An association shall have a written guest policy which reasonably limits access to club facilities by guests.
- (b) "In existence and operating" shall mean for at least two years prior to the application for a club license, the association shall have had at least an annual meeting of the membership with a quorum present, shall have taken actions toward the performance of their non-profit purposes, and shall have elected a governing body which meets periodically.
- (c) Regularly paying dues - For the purpose of these rules "regularly paying dues" shall mean that the members have paid dues on a regular schedule at least annually.
- (d) Salary - shall mean a fixed periodical compensation paid for services rendered. No salary may be paid which is based on the amount of liquor or malt beverages sold or on the profits made from such sales.
- (e) Suitable kitchen - shall mean that the kitchen is adequate to prepare regular meals. Said kitchen shall have sufficient cookware, tableware and food preparation and storage equipment to actually store, prepare and serve meals. These facilities shall be inspected and approved by appropriate local zoning and codes inspectors.

(8) Additional Rules For Private Clubs

- (a) Each club shall maintain a complete membership roster. The membership roster shall contain the names of all members, their addresses, and the date on which their dues are to be paid. Private club licensees shall maintain their membership records at the club premises and made them available to representatives of the Alcoholic Beverage Commission during hours when the club is open to its members. Since minimum membership is one hundred, failure to have ten members at any annual meeting shall be prima-facie evidence of the non-existence of the association.
- (b) All salaries, rents or management fees paid by a private club to any person or legal entity must be reasonable and proper compensation under the circumstances.

(Rule 0100-1-.04, continued)

- (c) No private club shall dispense alcoholic beverage on the premises of the club to any person other than a bona fide member of the club or a bona fide guest of a member of the club. Alcoholic beverages should not be served in an area to which the general public is admitted. If the club's bar area is in a separate room from that to which the general public is admitted and admission to the bar is limited to members of the club and their guests, the bar may remain open. If however, the bar is in the room to which the general public is admitted, no alcoholic beverage are to be served in that room during the time the general public is present.
- (d) The Alcoholic Beverage Commission shall determine whether a club exists exclusively for non-profit purposes. No such license shall be issued where the ABC determines that the purpose is to make a profit.
- (e) Violation of any of the rules set out herein may, in the judgment of the ABC, result in the suspension or revocation of the club's license or the imposition of a fine under the rules of the Commission. These rules are in addition to the other rules of the ABC and shall apply to club licensees only.
- (f) Whenever membership in the club drops below 100, the club ceases to have facilities in which to serve its members or guests, or the club discontinues its operations, it shall surrender its license immediately.
- (g) No private club licensed by the Commissioner shall utilize any name other than the name approved by the Commission and appearing on the club's license. Use of a d/b/a name is prohibited.
- (h) From the effective date of these rules, each existing club licensee shall have twelve months to come into compliance with these rules. Disciplinary action will not be taken by the ABC against licensees for violations of these rules during the twelve months immediately following promulgation of these rules. Applicants for new licenses who appear before the Commission after the effective date of these rules will be subject to the requirements of these rules.

Authority: T.C.A. §§57-1-209, 57-4-102 and 57-4-201; 1980 Tennessee Public Acts, Chapter 895. **Administrative History:** Original rule filed July 29, 1980; effective October 29, 1980. Amendment filed April 26, 1984; effective May 26, 1984. Amendment filed August 20, 1985; effective November 14, 1985.